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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000119

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E.O. 12958: DECL: 01/30/2018  
TAGS: [PGOV](#) [PREL](#) [VE](#)  
SUBJECT: CNE REJECTS OPPOSITION REQUEST TO HOLD AMNESTY  
REFERENDUM

REF: A. 07 CARACAS 00219  
[1](#)B. CARACAS 00073

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Classified By: POLITICAL COUNSELOR ROBERT R. DOWNES  
FOR REASON 1.4 (D)

[1](#)1. (C) Summary. National Electoral Council (CNE) President Tibisay Lucena rejected an opposition request to convoke a referendum on an alternative amnesty bill proposed by civil society groups. Lucena said the authority to issue amnesty decrees had been delegated to President Chavez under the Enabling Law, obviating a CNE role. By shifting responsibility from the CNE to Chavez, Lucena delayed action on an issue that has become a rallying point for the opposition. Opposition and student leaders who marched January 23 to the offices of the Human Rights Ombudsman, the Attorney General, and the CNE to urge issuance of a comprehensive amnesty decree reported being tear gassed by government sympathizers. Separately, Marjorie Calderon, the judge in the Simonovis case, told Poloff January 24 she expects to issue a verdict in February. End Summary.

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CNE Won't Hold Referendum on Amnesty Decree  
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[1](#)2. (SBU) In a press statement issued January 22, Tibisay Lucena, President of the National Electoral Council (CNE), declared inadmissible an opposition request to convoke a referendum on an amnesty bill introduced in the National Assembly (NA) in May 2007 by civil society groups. Lucena noted that neither the CNE nor the NA were authorized to act on the bill because authority on amnesty issues had been turned over to President Chavez under the omnibus Enabling Law (Ref. A). The Enabling Law, which went into effect February 1, 2007, provides the Venezuelan president with broad authority to issue executive decrees for a period of 18 months in eleven areas - none of which specifically mention the right to issue amnesties. The opposition has contested Chavez's use of that supposed authority since he promulgated his limited Amnesty Decree on December 31 because it failed to benefit numerous individuals.

[1](#)3. (SBU) Foro Penal, the judicial NGO that drafted the alternative amnesty proposal, argues the constitution requires that proposals submitted by citizens and which were not debated by the NA within the regular legislative session must be submitted for popular approval by referendum via the CNE. (Note: Foro Penal's bill outlines a comprehensive

amnesty package that would benefit all persons allegedly implicated in political crimes. End Note.)

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Dissenting Voice  
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¶4. (SBU) CNE Rector Vicente Diaz publicly criticized Lucena's decision to issue a statement without previously consulting with the CNE's four other rectors. Diaz told the press that Lucena's statement represents the opinion of the CNE's legal consultants and is not binding. He plans to introduce the opposition's request to hold a referendum on Foro Penal's bill in the rectors' agenda when they convene the week of January 28.

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Opposition Demonstrates for Comprehensive Amnesty  
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¶5. (C) Sectors of the opposition and student leaders marched January 23 to the Human Rights Ombudsman, the Attorney General, and the CNE's offices to protest the continued detention of political prisoners excluded from Chavez's Amnesty Decree and to urge the government to call a referendum on the amnesty bill. Alfredo Romero, a lawyer and member of Foro Penal, told Poloff January 24 that a crowd of approximately 1500 demonstrators delivered a document outlining their position to the Ombudsman's Office, where they were well-received by two government officials. The group then marched to Attorney General Luisa Ortega Diaz's office, but she refused to receive them saying she did not have prior notification of the march. The march was supported by numerous opposition parties, including Un Nuevo Tiempo (UNT), Primero Justicia (PJ), Accion Democratica (AD), and the Christian Democrats (COPEI).

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Protesters Tear Gassed  
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¶6. (C) The demonstrators were impeded from congregating in front of the CNE's headquarters by a large contingent of Metropolitan Police (PM) and National Guard officers in riot gear. Whilmair Rodriguez, the wife of one of the eight police commissioners in the Simonovis case, told Poloff January 23 that state security officers held back opposition demonstrators but allowed government sympathizers closer access to the CNE. She said demonstrators dispersed after tear gas bombs were detonated. March participants told the local media they witnessed red-shirted individuals setting-off tear gas canisters.

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Update on Simonovis Case  
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¶7. (C) Poloff spoke to Marjorie Calderon, the judge in the Simonovis case, (Ref. B) January 24 on the margins of Calderon's visit to the Embassy for a visa interview. Calderon said she expects to deliver a verdict in February and mentioned her desire to put the high profile case behind her. She blamed the lengthy trial on the more than 300 witnesses presented by the prosecution. Regarding media reports that DISIP (the police intelligence unit) officers forcibly removed ex-commissioners Simonovis and Forero from their holding cells and transported them to her courtroom, Calderon said the defendants incorrectly petitioned the Human Rights Ombudsman's Office to intervene on their behalf because they no longer wished to attend the hearings. Calderon argued the request should have been made to her, not the Ombudsman's Office. She subsequently requested that DISIP officers escort Simonovis and Forero to the courthouse. Once there, Calderon approved the defense's request to

excuse the two defendants from attending the remainder of the trial. Calderon expects several of the other defendants will request the same measure.

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Comment  
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18. (C) Lucena's decision was not surprising given the Bolivarian Republic of Venezuela's (BRV's) interest in keeping certain high profile, politically motivated cases open and ineligible for amnesty. Diaz's decision to publicly dispute Lucena's preemptive statements, however, diminished the international goodwill the BRV hoped to derive from the amnesty despite the fact it excluded major political prisoners. Opposition sectors and students have effectively used the media to keep this issue in the public eye, and we expect them to continue to pressure the BRV to broaden Chavez's very limited Amnesty Decree. Separately, Calderon appears anxious to rule on the Simonovis case, indicating she too wants to turn the page on what is reportedly the longest trial in recent Venezuelan history.

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